IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 461 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

IC DAVE

Versus

PANCHMAHALS DISTRICT PANCHAYAT

Appearance:

MR AS SUPEHIA for Petitioner

MR MUKESH R SHAH for Respondent No. 1, 3

MR VM PANCHOLI, AGP for Respondent No. 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 23/04/2001

ORAL JUDGEMENT

Rule. Service of rule is waived by Mr. M.R. Shah, learned advocate for respondent nos. 1 and 3 and Mr. V.M. Pancholi, Learned AGP for respondent no.2.

2. In the facts and circumstances of the case, the petition is taken up for final hearing with the consent of the learned counsel for the parties.

3. It appears that during pendency of the petition the major grievance of the petitioner as redressed, in as much as he is paid the amount of arrears of difference of salary on account of stepping up. Mr. Supehia, learned counsel for the petitioner, however, submits that the amount which was due and payable by the respondents from 1973 onwards was paid only in the year 2000 and, therefore, the respondents should be directed to pay the interest on delayed payments at the rate of 18% p.a. from the date/s when the amount/s became due on the respective dates.

4. There is no affidavit in reply filed on behalf of respondent nos. 1 and 3. However, Assistant Examiner, Local Fund Accounts - respondent no. 2 herein has filed affidavit in reply dated 4/7/2000 pointing out that the pay fixation case of the petitioner for deemed date was received in his office in March 1990 and the same was verified, admitted and returned to respondent no.3 in May 1990. It is further stated that respondent no. 3 had submitted the petitioner's case for verification of pay on 7/1/1999 for the first time and while verifying pay fixation, copy of some orders were required, for which respondent no. 3 was asked to supply the same. But respondent no. 3 took much time and that the documents were finally submitted in February 2000 and respondent no. 2 had verified, admitted and returned the same to respondent no. 3 within 5 days. Hence there was no delay on the part of respondent no.2. No affidavit in reply, however, is filed by respondents nos. 1 and 3.

5. Having perused the pleadings of the parties and the documents on record and having heard the learned counsel for the parties, it appears that while the Court is not inclined to consider the prayer for interest from the dates from which the amounts became due and payable as such dates are stated to be of 1973 onwards, atleast some justification ought to have been given by respondents nos. 1 and 3 for explaining the delay in making payments even after the pay fixation order was issued on 23/7/1990. In absence of any explanation from respondents nos. 1 and 3 and in view of the fact that the petitioner was not made payments even as per the last order for almost 10 years, it would be just and proper to direct respondents nos. 1 and 3 to pay the petitioner interest at the rate of 9% p.a. for the delayed payments

pursuant to the order dated 23/7/1990 for the period from 1/8/1990 till the date of payment. Mr. Supehia states that the payments were made in three instalments after this Court issued notice on the petition.

6. The petition is accordingly partly allowed in terms of the following directions :-

(A) Respondents nos. 1 and 3 are directed to pay the petitioner interest at the rate of 9% p.a. on the following amounts for the corresponding periods, within two months from the date of receipt of the writ of this Court or a certified copy of this order, whichever is earlier.

Amount Paid on	Interest for the period from	to
i. Rs.24,285/- 18/4/2000	1/8/1990	to 31/3/2000
ii. Rs. 4,197/- 1/6/2000	1/8/1990	to 31/5/2000
iii. Rs. 6,043/- 12/9/2000	1/8/1990	to 31/8/2000.

(B) On the basis of the order dated 23/7/1990 the respondents shall also fix the petitioner's pension, gratuity and other retiral benefits as expeditiously as possible and in any case within 3 months from the date of receipt of the writ of this Court or a certified copy of this order, whichever is earlier, and to pay the petitioner arrears of difference of all such retiral benefits within 3 months thereafter.

(C) Respondents Nos. 1 and 3 shall also pay the petitioner interest at the rate of 9% p.a. on the arrears of difference of retiral benefits from the date of the petitioner's retirement (1/11/1995) till the date of payment.

7. Rule is accordingly made absolute to the above extent with no order as to costs.

[M.S. SHAH, J.]

* Pansala.